BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

BAKERSFIELD CITY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2020020806

ORDER DENYING MOTION TO CONSOLIDATE

FEBRUARY 21, 2020

On December 18, 2019, Parent on behalf of Student filed with the Office of Administrative Hearings, referred to as OAH, a request for due process hearing in OAH case number 2019120777, First Case, naming Bakersfield City School District. First Case contains expedited and non-expedited issues, and is set for expedited and non-expedited hearings. On February 8, 2020, OAH granted Student's motion to amend the complaint, which still contains expedited and non-expedited issues, and is set for expedited and non-expedited hearings. The First Case is consolidated with Bakersfield City's non-expedited case, OAH case number 2020010042.

On February 20, 2020, Bakersfield City filed a Request for an Expedited Due Process Hearing in OAH case number 2020020806, Second Case, naming Student.

On February 21, 2020, Bakersfield City filed a Motion to Consolidate First Case with Second Case. On February 21, 2020, Student filed a non-opposition to the consolidation request.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, First Case and Second Case do not involve a common question of law or fact. Specifically, Student seeks to show that Student's disciplinary conduct was a manifestation of his disability, beginning at the start of the 2019-2020 school year. Therefore, Bakersfield City should have held either a manifestation determination meeting or found that his conduct was a manifestation of his disability, which Bakersfield City disputes. Bakersfield City asserts in case that Student's conduct is so severe that it may move Student to an interim alternative education setting due to Student's significant behavior issues, which does not involve whether Student's disciplinary conduct was a manifestation of his disability. While the cases will have many of the same witnesses, the legal issues are not substantial similar as to whether Bakersfield City should have convened a manifestation determination meeting sooner, and when a meeting was held was the determination correct, versus whether Student's conduct is such that Bakersfield City may place Student in an interim alternative education setting, which presumes Student's conduct was a manifestation of his

disability as otherwise Student would be in a disciplinary placement. Therefore, consolidation does not further the interests of judicial economy, and is denied.

ORDER

1. Bakersfield City's Motion to Consolidate is denied.

IT IS SO ORDERED.

DocuSigned by:
Peter Paul Castillo
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Peter Paul Castillo

Presiding Administrative Law Judge

Office of Administrative Hearings